

# Union Calendar No. 266

111<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 5013

**[Report No. 111–465, Part I]**

To amend title 10, United States Code, to provide for performance management of the defense acquisition system, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 14, 2010

Mr. ANDREWS (for himself, Mr. CONAWAY, Mr. SKELTON, Mr. McKEON, Mr. ELLSWORTH, Mr. COFFMAN of Colorado, and Mr. HUNTER) introduced the following bill; which was referred to the Committee on Armed Services, and in addition to the Committee on Oversight and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

APRIL 23, 2010

Additional sponsors: Mr. ORTIZ, Mr. LARSON of Connecticut, and Mr. LARSEN of Washington

APRIL 23, 2010

Reported from the Committee on Armed Services with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

APRIL 23, 2010

Committee on Oversight and Government Reform discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on April 14, 2010]

# **A BILL**

To amend title 10, United States Code, to provide for performance management of the defense acquisition system, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Implementing Manage-*  
 5 *ment for Performance and Related Reforms to Obtain Value*  
 6 *in Every Acquisition Act of 2010”.*

7 **SEC. 2. DEFINITION OF CONGRESSIONAL DEFENSE COM-**  
 8 **MITTEES.**

9 *In this Act, the term “congressional defense commit-*  
 10 *tees” has the meaning given that term in section 101(a)(16)*  
 11 *of title 10, United States Code.*

12 **SEC. 3. TABLE OF CONTENTS.**

13 *The table of contents for this Act is as follows:*

*Sec. 1. Short title.*

*Sec. 2. Definition of congressional defense committees.*

*Sec. 3. Table of contents.*

**TITLE I—DEFENSE ACQUISITION SYSTEM**

*Sec. 101. Performance management of the defense acquisition system.*

*Sec. 102. Meaningful consideration by Joint Requirements Oversight Council of  
input from certain officials.*

*Sec. 103. Performance management for the Joint Capabilities Integration and  
Development System.*

*Sec. 104. Requirements for the acquisition of services.*

*Sec. 105. Joint evaluation task forces.*

*Sec. 106. Review of defense acquisition guidance.*

*Sec. 107. Requirement to include references to services contracting throughout the  
Federal Acquisition Regulation.*

*Sec. 108. Procurement of military purpose nondevelopmental items.*

**TITLE II—DEFENSE ACQUISITION WORKFORCE**

*Sec. 201. Acquisition workforce excellence.*

*Sec. 202. Amendments to the acquisition workforce demonstration project.*

*Sec. 203. Incentive programs for civilian and military personnel in the acquisi-  
tion workforce.*

*Sec. 204. Career development for civilian and military personnel in the acquisi-  
tion workforce.*

*Sec. 205. Recertification and training requirements.*

*Sec. 206. Information technology acquisition workforce.*

*Sec. 207. Definition of acquisition workforce.*  
*Sec. 208. Defense Acquisition University curriculum review.*  
*Sec. 209. Cost estimating internship and scholarship programs.*

### ***TITLE III—FINANCIAL MANAGEMENT***

*Sec. 301. Incentives for achieving auditability.*  
*Sec. 302. Measures required after failure to achieve auditability.*  
*Sec. 303. Review of obligation and expenditure thresholds.*

### ***TITLE IV—INDUSTRIAL BASE***

*Sec. 401. Expansion of the industrial base.*  
*Sec. 402. Commercial pricing analysis.*  
*Sec. 403. Contractor and grantee disclosure of delinquent Federal tax debts.*  
*Sec. 404. Independence of contract audits and business system reviews.*  
*Sec. 405. Blue ribbon panel on eliminating barriers to contracting with the Department of Defense.*  
*Sec. 406. Inclusion of the providers of services and information technology in the national technology and industrial base.*

## ***1 TITLE I—DEFENSE ACQUISITION 2 SYSTEM***

### ***3 SEC. 101. PERFORMANCE MANAGEMENT OF THE DEFENSE 4 ACQUISITION SYSTEM.***

#### ***5 (a) PERFORMANCE MANAGEMENT OF THE DEFENSE 6 ACQUISITION SYSTEM.—***

***7 (1) IN GENERAL.—****Part IV of title 10, United  
8 States Code, is amended by inserting after chapter  
9 148 the following new chapter:*

### ***10 “CHAPTER 149—PERFORMANCE MANAGE- 11 MENT OF THE DEFENSE ACQUISITION 12 SYSTEM***

*“Sec.*  
*“2545. Performance assessment of the defense acquisition system.*  
*“2546. Audits of performance assessment.*  
*“2547. Use of performance assessments for managing performance.*  
*“2548. Acquisition-related functions of the Chiefs of Staff of the armed forces.*

1 **“§ 2545. Performance assessment of the defense acqui-**  
2 **sition system**

3 “(a) *PERFORMANCE ASSESSMENTS REQUIRED.—(1)*  
4 *The Secretary of Defense shall ensure that all elements of*  
5 *the defense acquisition system are subject to regular per-*  
6 *formance assessments—*

7 “(A) *to determine the extent to which such ele-*  
8 *ments deliver appropriate value to the Department of*  
9 *Defense; and*

10 “(B) *to enable senior officials of the Department*  
11 *of Defense to manage the elements of the defense ac-*  
12 *quisition system to maximize their value to the De-*  
13 *partment.*

14 “(2) *The performance of each element of the defense*  
15 *acquisition system shall be assessed as needed, but not less*  
16 *often than annually.*

17 “(3) *The Secretary shall ensure that the performance*  
18 *assessments required by this subsection are appropriately*  
19 *tailored to reflect the diverse nature of defense acquisition*  
20 *so that the performance assessment of each element of the*  
21 *defense acquisition system accurately reflects the work per-*  
22 *formed by such element.*

23 “(b) *SYSTEMWIDE CATEGORIES.—(1) The Secretary of*  
24 *Defense shall establish categories of metrics for the defense*  
25 *acquisition system, including, at a minimum, categories re-*  
26 *lating to cost, quality, delivery, workforce, and policy im-*

1 *plementation that apply to all elements of the defense acqui-*  
 2 *sition system.*

3       “(2) *The Secretary of Defense shall issue guidance for*  
 4 *service acquisition executives within the Department of De-*  
 5 *fense on the establishment of metrics, and goals and stand-*  
 6 *ards relating to such metrics, within the categories estab-*  
 7 *lished by the Secretary under paragraph (1) to ensure that*  
 8 *there is sufficient uniformity in performance assessments*  
 9 *across the defense acquisition system so that elements of the*  
 10 *defense acquisition system can be meaningfully compared.*

11       “(c) *METRICS, GOALS, AND STANDARDS.—(1) Each*  
 12 *service acquisition executive of the Department of Defense*  
 13 *shall establish metrics to be used in the performance assess-*  
 14 *ments required by subsection (a) for each element of the de-*  
 15 *fense acquisition system for which such executive is respon-*  
 16 *sible within the categories established by the Secretary*  
 17 *under subsection (b). Such metrics shall be appropriately*  
 18 *tailored pursuant to subsection (a)(3) and may include*  
 19 *measures of—*

20               “(A) *cost, quality, and delivery;*

21               “(B) *contractor performance;*

22               “(C) *excessive use of contract bundling and*  
 23 *availability of non-bundled contract vehicles;*

24               “(D) *workforce quality and program manager*  
 25 *tenure (where applicable);*

1           “(E) the quality of market research;

2           “(F) appropriate use of integrated testing;

3           “(G) appropriate consideration of long-term  
4           sustainment; and

5           “(H) appropriate acquisition of technical data  
6           and other rights and assets necessary to support long-  
7           term sustainment.

8           “(2) Each service acquisition executive within the De-  
9           partment of Defense shall establish goals and standards (in-  
10          cluding, at a minimum, a threshold standard and an objec-  
11          tive goal) for each metric established under paragraph (1)  
12          by the executive. In establishing the goals and standards  
13          for an element of the defense acquisition system, a service  
14          acquisition executive shall consult with the head of the ele-  
15          ment to the maximum extent practicable, but the service  
16          acquisition executive shall retain the final authority to de-  
17          termine the goals and standards established. The service ac-  
18          quisition executive shall update the goals and standards as  
19          necessary and appropriate consistent with the guidance  
20          issued under subsection (b)(2).

21          “(3) The Under Secretary of Defense for Acquisition,  
22          Technology, and Logistics shall periodically review the  
23          metrics, goals, and standards established by service acquisi-  
24          tion executives under this subsection to ensure that they are  
25          consistent with the guidance issued under subsection (b)(2).

1       “(d) *RESPONSIBILITY FOR OVERSIGHT AND DIREC-*  
2 *TION OF PERFORMANCE ASSESSMENTS.*—(1) *Performance*  
3 *assessments required by subsection (a) shall either be car-*  
4 *ried out by, or shall be subject to the oversight of, the Direc-*  
5 *tor of the Office of Performance Assessment and Root Cause*  
6 *Analysis. The authority and responsibility granted by this*  
7 *subsection is in addition to any other authority or responsi-*  
8 *bility granted to the Director of the Office of Performance*  
9 *Assessment and Root Cause Analysis by the Secretary of*  
10 *Defense or by any other provision of law. In the perform-*  
11 *ance of duties pursuant to this section, the Director of the*  
12 *Office of Performance Assessment and Root Cause analysis*  
13 *shall coordinate with the Deputy Chief Management Officer*  
14 *to ensure that performance assessments carried out pursu-*  
15 *ant to this section are consistent with the performance man-*  
16 *agement initiatives of the Department of Defense.*

17       “(2) *A performance assessment may be carried out by*  
18 *an organization under the control of the service acquisition*  
19 *executive of a military department if—*

20               “(A) *the assessment fulfills the requirements of*  
21 *subsection (a);*

22               “(B) *the organization is approved to carry out*  
23 *the assessment by the Director of the Office of Per-*  
24 *formance Assessment and Root Cause Analysis; and*



1           “(C) *the assessment is subject to the oversight of*  
2           *the Director of the Office of Performance Assessment*  
3           *and Root Cause Analysis in accordance with para-*  
4           *graph (1).*

5           “(e) *RETENTION AND ACCESS TO RECORDS OF PER-*  
6           *FORMANCE ASSESSMENTS WITHIN THE MILITARY DEPART-*  
7           *MENTS AND DEFENSE AGENCIES.—The Secretary of De-*  
8           *fense shall ensure that information from performance as-*  
9           *sessments of all elements of the defense acquisition system*  
10          *are retained electronically and that the Director of the Of-*  
11          *fice of Performance Assessment and Root Cause Analysis—*

12           “(1) *promptly receives the results of all perform-*  
13          *ance assessments conducted by an organization under*  
14          *the control of the service acquisition executive of a*  
15          *military department; and*

16           “(2) *has timely access to any records and data*  
17          *in the Department of Defense (including the records*  
18          *and data of each military department and Defense*  
19          *Agency and including classified and proprietary in-*  
20          *formation) that the Director considers necessary to re-*  
21          *view in order to perform or oversee performance as-*  
22          *sessments pursuant to this section.*

23          “(f) *DEFINITIONS.—In this section:*

24           “(1) *The term ‘defense acquisition system’ means*  
25          *the acquisition workforce; the process by which the*

1     *Department of Defense manages the acquisition of*  
2     *goods and services, including weapon systems, com-*  
3     *modities, commercial and military unique services,*  
4     *and information technology; and the management*  
5     *structure for carrying out the acquisition function*  
6     *within the Department of Defense.*

7             *“(2) The term ‘element of the defense acquisition*  
8     *system’ means an organization that operates within*  
9     *the defense acquisition system and that focuses pri-*  
10    *marily on acquisition.*

11            *“(3) The term ‘metric’ means a specific measure*  
12    *that serves as a basis for comparison.*

13            *“(4) The term ‘threshold performance standard’*  
14    *means the minimum acceptable level of performance*  
15    *in relation to a metric.*

16            *“(5) The term ‘objective performance goal’ means*  
17    *the most desired level of performance in relation to a*  
18    *metric.*

19            *“(6) The term ‘Office of Performance Assessment*  
20    *and Root Cause Analysis’ means the office reporting*  
21    *to the senior official designated by the Secretary of*  
22    *Defense under section 103(a) of the Weapon Systems*  
23    *Acquisition Reform Act of 2009 (Public Law 111–23,*  
24    *10 U.S.C. 2430 note).*

1 **“§ 2546. Audits of performance assessment**

2 “(a) *AUDITS REQUIRED.*—The Secretary of Defense  
3 shall ensure that the performance assessments of the defense  
4 acquisition system required by section 2545 of this title are  
5 subject to periodic audits to determine the accuracy, reli-  
6 ability, and completeness of such assessments.

7 “(b) *STANDARDS AND APPROACH.*—In performing the  
8 audits required by subsection (a), the Secretary shall ensure  
9 that such audits—

10 “(1) *comply with generally accepted government*  
11 *auditing standards issued by the Comptroller Gen-*  
12 *eral;*

13 “(2) *use a risk-based approach to audit plan-*  
14 *ning; and*

15 “(3) *appropriately account for issues associated*  
16 *with auditing assessments of activities occurring in a*  
17 *contingency operation.*

18 **“§ 2547. Use of performance assessments for managing**  
19 ***performance***

20 “(a) *IN GENERAL.*—The Secretary of Defense shall en-  
21 sure that the results of performance assessments are used  
22 in the management of elements of the defense acquisition  
23 system through direct linkages between the results of a per-  
24 formance assessment and the following:

1           “(1) *The size of the bonus pool available to the*  
 2           *workforce of an element of the defense acquisition sys-*  
 3           *tem.*

4           “(2) *Rates of promotion in the workforce of an*  
 5           *element of the defense acquisition system.*

6           “(3) *Awards for acquisition excellence.*

7           “(4) *The scope of work assigned to an element of*  
 8           *the defense acquisition system.*

9           “(b) *ADDITIONAL REQUIREMENTS.—The Secretary of*  
 10          *Defense shall ensure that actions taken to manage the acqui-*  
 11          *sition workforce pursuant to subsection (a) are undertaken*  
 12          *in accordance with the requirements of subsections (c) and*  
 13          *(d) of section 1701a of this title.*

14          **“§ 2548. Acquisition-related functions of the Chiefs of**  
 15                               **Staff of the armed forces**

16          “(a) *ASSISTANCE.—The Secretary of Defense shall en-*  
 17          *sure, notwithstanding section 3014(c)(1)(A), section*  
 18          *5014(c)(1)(A), and section 8014(c)(1)(A) of this title, that*  
 19          *the Chief of Staff of the Army, the Chief of Naval Oper-*  
 20          *ations, the Chief of Staff of the Air Force, and the Com-*  
 21          *mandant of the Marine Corps assist the Secretary of the*  
 22          *military department concerned in the performance of the*  
 23          *following acquisition-related functions of such department:*

24               “(1) *The development of requirements relating to*  
 25               *the defense acquisition system.*

1           “(2) *The development of measures to control re-*  
2           *quirements creep in the defense acquisition system.*

3           “(3) *The development of career paths in acquisi-*  
4           *tion for military personnel (as required by section*  
5           *1722a of this title).*

6           “(4) *The assignment and training of contracting*  
7           *officer representatives when such representatives are*  
8           *required to be members of the armed forces because of*  
9           *the nature of the contract concerned.*

10          “(b) *DEFINITIONS.—In this section:*

11           “(1) *The term ‘requirements creep’ means the ad-*  
12           *dition of new technical or operational specifications*  
13           *after a requirements document is approved.*

14           “(2) *The term ‘requirements document’ means a*  
15           *document produced in the requirements process that*  
16           *is provided for an acquisition program to guide the*  
17           *subsequent development, production, and testing of the*  
18           *program and that—*

19                   “(A) *justifies the need for a materiel ap-*  
20                   *proach, or an approach that is a combination of*  
21                   *materiel and non-materiel, to satisfy one or more*  
22                   *specific capability gaps;*

23                   “(B) *details the information necessary to*  
24                   *develop an increment of militarily useful,*  
25                   *logistically supportable, and technically mature*

1           *capability, including key performance param-*  
 2           *eters; or*

3           “(C) *identifies production attributes re-*  
 4           *quired for a single increment of a program.*”.

5           (2) *CLERICAL AMENDMENTS.—The table of chap-*  
 6           *ters at the beginning of subtitle A of title 10, United*  
 7           *States Code, and at the beginning of part IV of such*  
 8           *subtitle, are each amended by inserting after the item*  
 9           *relating to chapter 148 the following new item:*

*“149. Performance Management of the Defense Acquisition System ..... 2545”.*

10          (b) *PHASED IMPLEMENTATION OF PERFORMANCE AS-*  
 11         *SESSMENTS.—The Secretary of Defense shall implement the*  
 12         *requirements of chapter 149 of title 10, United States Code,*  
 13         *as added by subsection (a), in a phased manner while guid-*  
 14         *ance is issued, and categories, metrics, goals, and standards*  
 15         *are established. Implementation shall begin with a cross sec-*  
 16         *tion of elements of the defense acquisition system represent-*  
 17         *ative of the entire system and shall be completed for all ele-*  
 18         *ments not later than two years after the date of the enact-*  
 19         *ment of this Act.*

20         **SEC. 102. MEANINGFUL CONSIDERATION BY JOINT RE-**  
 21                 **QUIREMENTS OVERSIGHT COUNCIL OF INPUT**  
 22                 **FROM CERTAIN OFFICIALS.**

23          (a) *ADVISORS TO THE JOINT REQUIREMENTS OVER-*  
 24         *SIGHT COUNCIL.—*

1           (1) *ADDITIONAL CIVILIAN ADVISORS.*—*Subsection*  
 2           *(d)(1) of section 181 of title 10, United States Code,*  
 3           *is amended by striking “The Under Secretary” and*  
 4           *all that follows through “and expertise.” and insert-*  
 5           *ing the following: “The following officials of the De-*  
 6           *partment of Defense shall serve as advisors to the*  
 7           *Council on matters within their authority and exper-*  
 8           *tise:*

9           “(A) *The Under Secretary of Defense for Acquisi-*  
 10          *tion, Technology, and Logistics.*

11          “(B) *The Under Secretary of Defense (Comp-*  
 12          *troller).*

13          “(C) *The Under Secretary of Defense for Policy.*

14          “(D) *The Director of Cost Assessment and Pro-*  
 15          *gram Evaluation.”.*

16          (2) *ROLE OF COMBATANT COMMANDERS AS MEM-*  
 17          *BERS OF THE JROC.*—*Paragraph (1) of subsection (c)*  
 18          *of such section is amended—*

19                 (A) *by striking “and” at the end of sub-*  
 20                 *paragraph (D);*

21                 (B) *by striking the period at the end of sub-*  
 22                 *paragraph (E) and inserting “; and”; and*

23                 (C) *by adding at the end the following new*  
 24                 *subparagraph:*

1           “(F) when directed by the chairman, the  
 2           commander of any combatant command (or, as  
 3           directed by that commander, the deputy com-  
 4           mander of that command) when matters related  
 5           to the area of responsibility or functions of that  
 6           command will be under consideration by the  
 7           Council.”.

8           (b) *AMENDMENT RELATED TO REPORT.*—Paragraph  
 9           (2) of section 105(c) of the Weapon System Acquisition Re-  
 10          form Act of 2009 (Public Law 111–23; 123 Stat. 1718) is  
 11          amended to read as follows:

12           “(2) *MATTERS COVERED.*—The report shall in-  
 13          clude, at a minimum, an assessment of—

14           “(A) the extent to which the Council has ef-  
 15          fectively sought, and the commanders of the com-  
 16          batant commands have provided, meaningful  
 17          input on proposed joint military requirements;

18           “(B) the extent to which the Council has  
 19          meaningfully considered the input and expertise  
 20          of the Under Secretary of Defense for Acquisi-  
 21          tion, Technology, and Logistics in its discus-  
 22          sions;

23           “(C) the extent to which the Council has  
 24          meaningfully considered the input and expertise



1           *of the Director of Cost Assessment and Program*  
 2           *Evaluation in its discussions;*

3           “(D) *the quality and effectiveness of efforts*  
 4           *to estimate the level of resources needed to fulfill*  
 5           *joint military requirements; and*

6           “(E) *the extent to which the Council has*  
 7           *considered trade-offs among cost, schedule, and*  
 8           *performance objectives.”.*

9   **SEC. 103. PERFORMANCE MANAGEMENT FOR THE JOINT CA-**  
 10           **PABILITIES INTEGRATION AND DEVELOP-**  
 11           **MENT SYSTEM.**

12       (a) *REQUIREMENT FOR PROGRAM.*—*The Secretary of*  
 13       *Defense shall ensure that the Department of Defense devel-*  
 14       *ops and implements a program to manage performance in*  
 15       *establishing joint military requirements pursuant to section*  
 16       *181 of title 10, United States Code.*

17       (b) *LEADERS.*—*The Secretary of Defense shall des-*  
 18       *ignate an officer identified or designated as a joint qualified*  
 19       *officer to serve as leader of a joint effort to develop the per-*  
 20       *formance management program required by subsection (a).*  
 21       *The Secretary shall also designate an officer from each*  
 22       *Armed Force to serve as leader of the effort within the*  
 23       *Armed Force concerned. Officers designated pursuant to*  
 24       *this section shall have the seniority and authority necessary*  
 25       *to oversee and direct all personnel engaged in establishing*

1 *joint military requirements within the Joint Staff or with-*  
2 *in the Armed Force concerned.*

3 (c) *MATTERS COVERED.—The program developed pur-*  
4 *suant to subsection (a) shall:*

5 (1) *Measure the following in relation to each*  
6 *joint military requirement:*

7 (A) *The time a requirements document*  
8 *takes to receive validation through the require-*  
9 *ments process.*

10 (B) *The quality of cost information associ-*  
11 *ated with the requirement and the extent to*  
12 *which cost information was considered during*  
13 *the requirements process.*

14 (C) *The extent to which the requirements*  
15 *process established a meaningful level of priority*  
16 *for the requirement.*

17 (D) *The extent to which the requirements*  
18 *process considered trade-offs between cost, sched-*  
19 *ule, and performance objectives.*

20 (E) *The quality of information on*  
21 *sustainment associated with the requirement and*  
22 *the extent to which sustainment information was*  
23 *considered during the requirements process.*

24 (F) *Such other matters as the Secretary*  
25 *shall determine appropriate.*

1           (2) *Achieve, to the maximum extent practicable,*  
2           *the following outcomes in the requirements process:*

3                   (A) *Timeliness in delivering capability to*  
4                   *the warfighter.*

5                   (B) *Mechanisms for controlling require-*  
6                   *ments creep.*

7                   (C) *Responsiveness to fact-of-life changes oc-*  
8                   *curring after the approval of a requirements doc-*  
9                   *ument, including changes to the threat environ-*  
10                  *ment, the emergence of new capabilities, or*  
11                  *changes in the resources estimated to procure or*  
12                  *sustain a capability.*

13                  (D) *The development of the personnel skills,*  
14                  *capacity, and training needed for an effective*  
15                  *and efficient requirements process.*

16                  (E) *Such other outcomes as the Secretary*  
17                  *shall determine appropriate.*

18           (d) *IMPLEMENTATION.—The program required by sub-*  
19           *section (a) shall be developed and initially implemented not*  
20           *later than one year after the date of the enactment of this*  
21           *Act and shall apply to requirements documents entering the*  
22           *requirements process after the date of initial implementa-*  
23           *tion.*

24           (e) *INITIAL REPORT.—Not later than 90 days after the*  
25           *initial implementation of the program required by sub-*

1 *section (a), the Secretary shall submit to the congressional*  
 2 *defense committees a report on the steps taken to develop*  
 3 *and implement the performance management program for*  
 4 *joint military requirements. The report shall address the*  
 5 *measures specified in subsection (c)(1).*

6 *(f) FINAL REPORT.—Not later than four years after*  
 7 *the initial implementation of the program required by sub-*  
 8 *section (a), the Secretary shall submit to the congressional*  
 9 *defense committees a report on the effectiveness of the pro-*  
 10 *gram for joint military requirements in achieving the out-*  
 11 *comes specified in subsection (c)(2).*

12 *(g) DEFINITIONS.—In this section:*

13 *(1) REQUIREMENTS PROCESS.—The term “re-*  
 14 *quirements process” means the Joint Capabilities In-*  
 15 *tegration and Development System (JCIDS) process*  
 16 *or any successor to such process established by the*  
 17 *Chairman of the Joint Chiefs of Staff to support the*  
 18 *statutory responsibility of the Joint Requirements*  
 19 *Oversight Council in advising the Chairman and the*  
 20 *Secretary of Defense in identifying, assessing, and*  
 21 *validating joint military capability needs, with their*  
 22 *associated operational performance criteria, in order*  
 23 *to successfully execute missions.*

24 *(2) REQUIREMENTS DOCUMENT.—The term “re-*  
 25 *quirements document” means a document produced in*

1        *the requirements process that is provided for an ac-*  
2        *quisition program to guide the subsequent develop-*  
3        *ment, production, and testing of the program and*  
4        *that—*

5                *(A) justifies the need for a materiel ap-*  
6                *proach, or an approach that is a combination of*  
7                *materiel and non-materiel, to satisfy one or more*  
8                *specific capability gaps;*

9                *(B) details the information necessary to de-*  
10              *velop an increment of militarily useful,*  
11              *logistically supportable, and technically mature*  
12              *capability, including key performance param-*  
13              *eters; or*

14              *(C) identifies production attributes required*  
15              *for a single increment of a program.*

16              *(3) REQUIREMENTS CREEP.—The term “require-*  
17              *ments creep” means the addition of new technical or*  
18              *operational specifications after a requirements docu-*  
19              *ment is approved.*

20              *(h) DISCRETIONARY IMPLEMENTATION AFTER 5*  
21              *YEARS.—After the date that is five years after the initial*  
22              *implementation of the performance management program*  
23              *under this section, the requirement to implement a program*  
24              *under this section shall be at the discretion of the Secretary*  
25              *of Defense.*

1 **SEC. 104. REQUIREMENTS FOR THE ACQUISITION OF SERV-**  
2 **ICES.**

3 (a) *PROCESS REQUIRED.*—The Secretary of Defense  
4 shall ensure that each military department establishes a  
5 process for identifying, assessing, and approving require-  
6 ments for the acquisition of services, and that commanders  
7 of unified combatant commands and other officers identi-  
8 fied or designated as joint qualified officers have an oppor-  
9 tunity to participate in the process of each military depart-  
10 ment to provide input on joint requirements for the acquisi-  
11 tion of services.

12 (b) *GUIDANCE AND PLAN REQUIRED.*—The Chief of  
13 Staff of the Army, the Chief of Naval Operations, the Chief  
14 of Staff of the Air Force, and the Commandant of the Ma-  
15 rine Corps shall—

16 (1) *issue and maintain guidance relating to each*  
17 *process established under subsection (a); and*

18 (2) *develop a plan to implement each process es-*  
19 *tablished under subsection (a).*

20 (c) *MATTERS REQUIRED IN GUIDANCE.*—The guidance  
21 issued under subsection (b) shall establish, in relation to  
22 a process for identifying, assessing, and approving require-  
23 ments for the acquisition of services, the following:

24 (1) *Organization of such process.*

25 (2) *The level of command responsibility required*  
26 *for identifying and validating requirements for the*

1        *acquisition of services in accordance with the cat-*  
 2        *egories established under section 2330(a)(1)(C) of title*  
 3        *10, United States Code.*

4            *(3) The composition of billets necessary to oper-*  
 5        *ate such process.*

6            *(4) The training required for personnel engaged*  
 7        *in such process.*

8            *(5) The relationship between doctrine and such*  
 9        *process.*

10           *(6) Methods of obtaining input on joint require-*  
 11        *ments for the acquisition of services.*

12           *(7) Procedures for coordinating with the acquisi-*  
 13        *tion process.*

14           *(8) Considerations relating to opportunities for*  
 15        *strategic sourcing.*

16        *(d) MATTERS REQUIRED IN IMPLEMENTATION*  
 17        *PLAN.—Each plan required under subsection (b) shall pro-*  
 18        *vide for initial implementation of a process for identifying,*  
 19        *assessing, and approving requirements for the acquisition*  
 20        *of services not later than 180 days after the date of the en-*  
 21        *actment of this Act and shall provide for full implementa-*  
 22        *tion of such process at the earliest date practicable.*

23        *(e) CONSISTENCY WITH JOINT GUIDANCE.—Whenever,*  
 24        *at any time, guidance is issued by the Chairman of the*  
 25        *Joint Chiefs of Staff relating to requirements for the acqui-*

1 *sition of services, each process established under subsection*  
 2 *(a) shall be revised in accordance with such joint guidance.*

3 *(f) DEFINITION.—The term “requirements for the ac-*  
 4 *quisition of services” means objectives to be achieved*  
 5 *through acquisitions primarily involving the procurement*  
 6 *of services.*

7 **SEC. 105. JOINT EVALUATION TASK FORCES.**

8 *(a) TASK FORCES REQUIRED.—For each joint mili-*  
 9 *tary requirement involving a materiel solution for which*  
 10 *the Chairman of the Joint Requirements Oversight Council*  
 11 *is the validation authority, the Chairman shall designate*  
 12 *a commander of a unified combatant command to provide*  
 13 *a joint evaluation task force to participate in such materiel*  
 14 *solution. Such task force shall—*

15 *(1) come from a military unit or units des-*  
 16 *ignated by the combatant commander concerned;*

17 *(2) be selected based on the relevance of such ma-*  
 18 *teriel solution to the mission of the unit; and*

19 *(3) participate consistent with its operational*  
 20 *obligations.*

21 *(b) RESPONSIBILITIES.—A task force provided pursu-*  
 22 *ant to subsection (a) shall, for the materiel solution con-*  
 23 *cerned—*

24 *(1) provide input to the analysis of alternatives;*



1           (2) *participate in testing (including limited user*  
2           *tests and prototype testing);*

3           (3) *provide input on a concept of operations and*  
4           *doctrine;*

5           (4) *provide end user feedback to the resource*  
6           *sponsor; and*

7           (5) *participate, through the combatant com-*  
8           *mander concerned, in any alteration of the require-*  
9           *ment for such solution.*

10          (c) *ADMINISTRATIVE SUPPORT.—The resource sponsor*  
11          *for the joint military requirement shall provide administra-*  
12          *tive support to the joint evaluation task force for purposes*  
13          *of carrying out this section.*

14          (d) *DEFINITIONS.—In this section:*

15               (1) *RESOURCE SPONSOR.—The term “resource*  
16               *sponsor” means the organization responsible for all*  
17               *common documentation, periodic reporting, and fund-*  
18               *ing actions required to support the capabilities devel-*  
19               *opment and acquisition process for the materiel solu-*  
20               *tion.*

21               (2) *MATERIEL SOLUTION.—The term “materiel*  
22               *solution” means the development, acquisition, pro-*  
23               *curement, or fielding of a new item, or of a modifica-*  
24               *tion to an existing item, necessary to equip, operate,*  
25               *maintain, and support military activities.*

1 **SEC. 106. REVIEW OF DEFENSE ACQUISITION GUIDANCE.**

2       (a) *REVIEW OF GUIDANCE.*—*The Secretary of Defense*  
3 *shall review the acquisition guidance of the Department of*  
4 *Defense, including, at a minimum, the guidance contained*  
5 *in Department of Defense Instruction 5000.02 entitled “Op-*  
6 *eration of the Defense Acquisition System”.*

7       (b) *MATTERS CONSIDERED.*—*The review performed*  
8 *under subsection (a) shall consider—*

9               (1) *the extent to which it is appropriate to apply*  
10 *guidance relating to the acquisition of weapon sys-*  
11 *tems to acquisitions not involving weapon systems*  
12 *(including the acquisition of commercial goods and*  
13 *commodities, commercial and military unique serv-*  
14 *ices, and information technology);*

15              (2) *whether long-term sustainment of weapon*  
16 *systems is appropriately emphasized;*

17              (3) *whether appropriate mechanisms exist to*  
18 *communicate information relating to the mission*  
19 *needs of the Department of Defense to the industrial*  
20 *base in a way that allows the industrial base to make*  
21 *appropriate investments in infrastructure, capacity,*  
22 *and technology development to help meet such needs;*

23              (4) *the extent to which earned value management*  
24 *should be required on acquisitions not involving the*  
25 *acquisition of weapon systems and whether measures*

1       of quality and technical performance should be in-  
2       cluded in any earned value management system;

3               (5) the extent to which it is appropriate to apply  
4       processes primarily relating to the acquisition of  
5       weapon systems to the acquisition of information  
6       technology systems, consistent with the requirement to  
7       develop an alternative process for such systems con-  
8       tained in section 804 of the National Defense Author-  
9       ization Act for Fiscal Year 2010 (Public Law 111–  
10      84; 123 Stat. 2401; 10 U.S.C. 2225 note); and

11              (6) such other matters as the Secretary considers  
12      appropriate.

13      (c) *REPORT*.—Not later than 270 days after the date  
14      of the enactment of this Act, the Secretary of Defense shall  
15      submit to the Committees on Armed Services of the Senate  
16      and of the House of Representatives a report detailing any  
17      changes in the acquisition guidance of the Department of  
18      Defense identified during the review required by subsection  
19      (a), and any actions taken, or planned to be taken, to im-  
20      plement such changes

21      **SEC. 107. REQUIREMENT TO INCLUDE REFERENCES TO**  
22                               **SERVICES CONTRACTING THROUGHOUT THE**  
23                               **FEDERAL ACQUISITION REGULATION.**

24      (a) *FINDINGS*.—Congress finds the following:

1           (1) *The acquisition of services can be extremely*  
 2           *complex, and program management skills, tools, and*  
 3           *processes need to be applied to services acquisitions.*

4           (2) *An emphasis on the concept of “services”*  
 5           *throughout the Federal Acquisition Regulation would*  
 6           *enhance and support the procurement and project*  
 7           *management community in all aspects of the acquisi-*  
 8           *tion planning process, including requirements devel-*  
 9           *opment, assessment of reasonableness, and post-award*  
 10          *management and oversight.*

11          (b) *REQUIREMENT FOR CHANGES TO FAR.—The Fed-*  
 12          *eral Acquisition Regulation shall be revised to provide,*  
 13          *throughout the Regulation, appropriate references to serv-*  
 14          *ices contracting that are in addition to references provided*  
 15          *in part 37 (which relates specifically to services con-*  
 16          *tracting).*

17          (c) *DEADLINE.—This section shall be carried out with-*  
 18          *in 270 days after the date of the enactment of this Act.*

19          **SEC. 108. PROCUREMENT OF MILITARY PURPOSE NON-**  
 20                                    **DEVELOPMENTAL ITEMS.**

21          (a) *IN GENERAL.—*

22               (1) *PROCUREMENT OF MILITARY PURPOSE NON-*  
 23               *DEVELOPMENTAL ITEMS.—Chapter 141 of title 10,*  
 24               *United States Code, is amended by adding at the end*  
 25               *the following new section:*

1 **“§ 2410r. Military purpose nondevelopmental items**

2 “(a) *DEFINITIONS.—In this section:*

3 “(1) *The term ‘military purpose nondevelop-*  
4 *mental item’ means an item—*

5 “(A) *developed exclusively at private ex-*  
6 *pense;*

7 “(B) *that meets a validated military re-*  
8 *quirement and for which the United States has*  
9 *rights in technical data as prescribed in section*  
10 *2320(a)(2)(B) of this title, as certified in writing*  
11 *by the responsible program manager;*

12 “(C) *for which delivery of an initial lot of*  
13 *production-representative items may be made*  
14 *within nine months after contract award; and*

15 “(D) *for which the unit cost is less than*  
16 *\$10,000,000.*

17 “(2) *The term ‘item’ has the meaning provided*  
18 *in section 2302(3) of this title.*

19 “(b) *REQUIREMENTS.—The Secretary of Defense shall*  
20 *ensure that, with respect to a contract for the acquisition*  
21 *of a military purpose nondevelopmental item, the following*  
22 *requirements apply:*

23 “(1) *The contract shall be awarded using com-*  
24 *petitive procedures in accordance with section 2304 of*  
25 *this title.*

1           “(2) *Certain contract clauses, as specified in reg-*  
 2           *ulations prescribed under subsection (c), shall be in-*  
 3           *cluded in each such contract.*

4           “(3) *The type of contract used shall be a firm,*  
 5           *fixed price type contract.*

6           “(c) *REGULATIONS.—The Secretary of Defense shall*  
 7           *prescribe regulations to carry out this section. Such regula-*  
 8           *tions shall be included in regulations of the Department of*  
 9           *Defense prescribed as part of the Federal Acquisition Regu-*  
 10          *lation. At a minimum, the regulations shall include—*

11           “(1) *a list of contract clauses to be included in*  
 12           *each contract for the acquisition of a military pur-*  
 13           *pose nondevelopmental item;*

14           “(2) *definitions for the terms ‘developed’ and ‘ex-*  
 15           *clusively at private expense’ that—*

16           “(A) *are consistent with the definitions de-*  
 17           *veloped for such terms in accordance with*  
 18           *2320(a)(3) of this title; and*

19           “(B) *also exclude an item developed in part*  
 20           *or in whole with—*

21           “(i) *foreign government funding; or*

22           “(ii) *foreign or Federal Government*  
 23           *loan financing at nonmarket rates; and*

1           “(3) standards for evaluating the reasonableness  
2           of price for the military purpose nondevelopmental  
3           item, in lieu of certified cost or pricing data.”.

4           (2) *CLERICAL AMENDMENT.*—The table of sec-  
5           tions at the beginning of such chapter is amended by  
6           adding at the end the following new item:

“2410r. Military purpose nondevelopmental items.”.

7           (b) *COST OR PRICING DATA EXCEPTION.*—Section  
8           2306a(b)(1) of title 10, United States Code, is amended—  
9           (1) by striking “or” at the end of subparagraph  
10          (B);

11          (2) by striking the period at the end of subpara-  
12          graph (C) and inserting “; or”; and

13          (3) by adding at the end the following new sub-  
14          paragraph:

15                 “(D) for the acquisition of a military pur-  
16                 pose nondevelopmental item, as defined in sec-  
17                 tion 2410r of this title, if the contracting officer  
18                 determines in writing that—

19                         “(i) the contract, subcontract or modi-  
20                         fication will be a firm, fixed price type con-  
21                         tract; and

22                         “(ii) the offeror has submitted suffi-  
23                         cient information to evaluate, through price  
24                         analysis, the reasonableness of the price for

1                   the military purpose nondevelopmental  
2                   item.”.

3           (c) *EFFECTIVE DATE*.—Section 2410r of title 10,  
4   United States Code, as added by subsection (a), and the  
5   amendment made by subsection (b), shall apply with respect  
6   to contracts entered into after the date that is 120 days  
7   after the date of the enactment of this Act.

8                   **TITLE II—DEFENSE**  
9                   **ACQUISITION WORKFORCE**

10   **SEC. 201. ACQUISITION WORKFORCE EXCELLENCE.**

11           (a) *IN GENERAL*.—

12                   (1) *ACQUISITION WORKFORCE EXCELLENCE*.—  
13   Subchapter I of chapter 87 of title 10, United States  
14   Code, is amended by inserting after section 1701 the  
15   following new section:

16   **“§1701a. Management for acquisition workforce ex-**  
17                   **cellence**

18           “(a) *PURPOSE*.—The purpose of this chapter is to re-  
19   quire the Department of Defense to develop and manage a  
20   highly skilled professional acquisition workforce—

21                   “(1) in which excellence and contribution to mis-  
22   sion is rewarded;

23                   “(2) which has the technical expertise and busi-  
24   ness skills to ensure the Department receives the best  
25   value for the expenditure of public resources;



1           “(3) which serves as a model for performance  
2           management of employees of the Department; and

3           “(4) which is managed in a manner that com-  
4           plements and reinforces the performance management  
5           of the defense acquisition system pursuant to chapter  
6           149 of this title.

7           “(b) *PERFORMANCE MANAGEMENT*.—In order to  
8           achieve the purpose set forth in subsection (a), the Secretary  
9           of Defense shall—

10           “(1) use the full authorities provided in sub-  
11           sections (a) through (d) of section 9902 of title 5, in-  
12           cluding flexibilities related to performance manage-  
13           ment and hiring and to training of managers;

14           “(2) require managers to develop performance  
15           plans for individual members of the acquisition work-  
16           force in order to give members an understanding of  
17           how their performance contributes to their organiza-  
18           tion’s mission and the success of the defense acquisi-  
19           tion system (as defined in section 2545 of this title);

20           “(3) to the extent appropriate, use the lessons  
21           learned from the acquisition demonstration project  
22           carried out under section 1762 of this title related to  
23           contribution-based compensation and appraisal, and  
24           how those lessons may be applied within the General  
25           Schedule system;

1           “(4) develop attractive career paths;

2           “(5) encourage continuing education and train-  
3       ing;

4           “(6) develop appropriate procedures for warn-  
5       ings during performance evaluations and due process  
6       for members of the acquisition workforce who consist-  
7       ently fail to meet performance standards;

8           “(7) take full advantage of the Defense Civilian  
9       Leadership Program established under section 1112 of  
10      the National Defense Authorization Act for Fiscal  
11      Year 2010, (Public Law 111–84; 123 Stat. 2496; 10  
12      U.S.C. 1580 note prec.);

13          “(8) use the authorities for highly qualified ex-  
14      perts under section 9903 of title 5, to hire experts who  
15      are skilled acquisition professionals to—

16           “(A) serve in leadership positions within  
17      the acquisition workforce to strengthen manage-  
18      ment and oversight;

19           “(B) provide mentors to advise individuals  
20      within the acquisition workforce on their career  
21      paths and opportunities to advance and excel  
22      within the acquisition workforce; and

23           “(C) assist with the design of education and  
24      training courses and the training of individuals  
25      in the acquisition workforce; and

7       “(d) *REGULATIONS.*—Any rules or regulations pre-  
8       scribed pursuant to this section shall be deemed an agency  
9       rule or regulation under section 7117(a)(2) of title 5, and  
10       shall not be deemed a Government-wide rule or regulation  
11       under section 7117(a)(1) of such title.”.

*“1701a. Management for acquisition workforce excellence.”.*

21 *SEC. 202. AMENDMENTS TO THE ACQUISITION WORKFORCE*  
22 *DEMONSTRATION PROJECT.*

•HR 5013 RH

1           (1) *IN GENERAL.*—Chapter 87 of title 10, United  
2       *States Code*, is amended by inserting after section  
3       1761 the following new section:

4       **“§ 1762. Demonstration project relating to certain ac-**  
5                       **quisition personnel management policies**  
6                       **and procedures**

7       “(a) *COMMENCEMENT.*—The Secretary of Defense is  
8       *encouraged to carry out a demonstration project, the pur-*  
9       *pose of which is to determine the feasibility or desirability*  
10      *of one or more proposals for improving the personnel man-*  
11      *agement policies or procedures that apply with respect to*  
12      *the acquisition workforce of the Department of Defense and*  
13      *supporting personnel assigned to work directly with the ac-*  
14      *quisition workforce.*

15      “(b) *TERMS AND CONDITIONS.*—(1) *Except as other-*  
16      *wise provided in this subsection, any demonstration project*  
17      *described in subsection (a) shall be subject to section 4703*  
18      *of title 5 and all other provisions of such title that apply*  
19      *with respect to any demonstration project under such sec-*  
20      *tion.*

21      “(2) *Subject to paragraph (3), in applying section*  
22      *4703 of title 5 with respect to a demonstration project de-*  
23      *scribed in subsection (a)—*

24               “(A) ‘180 days’ in subsection (b)(4) of such sec-  
25      *tion shall be deemed to read ‘120 days’;*

1           “(B) ‘90 days’ in subsection (b)(6) of such sec-  
2           tion shall be deemed to read ‘30 days’; and

3           “(C) subsection (d)(1) of such section shall be  
4           disregarded.

5           “(3) Paragraph (2) shall not apply with respect to a  
6           demonstration project unless—

7           “(A) for each organization or team participating  
8           in the demonstration project—

9           “(i) at least one-third of the workforce par-  
10           ticipating in the demonstration project consists  
11           of members of the acquisition workforce; and

12           “(ii) at least two-thirds of the workforce  
13           participating in the demonstration project con-  
14           sists of members of the acquisition workforce and  
15           supporting personnel assigned to work directly  
16           with the acquisition workforce; and

17           “(B) the demonstration project commences before  
18           October 1, 2007.

19           “(c) *LIMITATION ON NUMBER OF PARTICIPANTS.*—The  
20           total number of persons who may participate in the dem-  
21           onstration project under this section may not exceed  
22           120,000.

23           “(d) *EFFECT OF REORGANIZATIONS.*—The applica-  
24           bility of paragraph (2) of subsection (b) to an organization  
25           or team shall not terminate by reason that the organization

1 or team, after having satisfied the conditions in paragraph  
2 (3) of such subsection when it began to participate in a  
3 demonstration project under this section, ceases to meet one  
4 or both of the conditions set forth in subparagraph (A) of  
5 such paragraph (3) as a result of a reorganization, restruc-  
6 turing, realignment, consolidation, or other organizational  
7 change.

8 “(e) *ASSESSMENT.*—(1) *The Secretary of Defense shall*  
9 *designate an independent organization to review the acqui-*  
10 *sition workforce demonstration project described in sub-*  
11 *section (a).*

12 “(2) *Such assessment shall include:*

13 “(A) *A description of the workforce included in*  
14 *the project.*

15 “(B) *An explanation of the flexibilities used in*  
16 *the project to appoint individuals to the acquisition*  
17 *workforce and whether those appointments are based*  
18 *on competitive procedures and recognize veteran’s*  
19 *preferences.*

20 “(C) *An explanation of the flexibilities used in*  
21 *the project to develop a performance appraisal system*  
22 *that recognizes excellence in performance and offers*  
23 *opportunities for improvement.*

1           “(D) *The steps taken to ensure that such system*  
2           *is fair and transparent for all employees in the*  
3           *project.*

4           “(E) *How the project allows the organization to*  
5           *better meet mission needs.*

6           “(F) *An analysis of how the flexibilities in sub-*  
7           *paragraphs (B) and (C) are used, and what barriers*  
8           *have been encountered that inhibit their use.*

9           “(G) *Whether there is a process for (i) ensuring*  
10          *ongoing performance feedback and dialogue among*  
11          *supervisors, managers, and employees throughout the*  
12          *performance appraisal period, and (ii) setting time-*  
13          *tables for performance appraisals.*

14          “(H) *The project’s impact on career progression.*

15          “(I) *The project’s appropriateness or inappropri-*  
16          *ateness in light of the complexities of the workforce af-*  
17          *ected.*

18          “(J) *The project’s sufficiency in terms of pro-*  
19          *viding protections for diversity in promotion and re-*  
20          *tention of personnel.*

21          “(K) *The adequacy of the training, policy guide-*  
22          *lines, and other preparations afforded in connection*  
23          *with using the project.*

1           “(L) *Whether there is a process for ensuring em-*  
 2           *ployee involvement in the development and improve-*  
 3           *ment of the project.*

4           “(3) *The first such assessment under this subsection*  
 5           *shall be completed not later than September 30, 2011, and*  
 6           *subsequent assessments shall be completed every two years*  
 7           *thereafter until the termination of the project. The Secretary*  
 8           *shall submit to the covered congressional committees a copy*  
 9           *of the assessment within 30 days after receipt by the Sec-*  
 10          *retary of the assessment.*

11          “(f) *COVERED CONGRESSIONAL COMMITTEES.—In this*  
 12          *section, the term ‘covered congressional committees’*  
 13          *means—*

14                 “(1) *the Committees on Armed Services of the*  
 15                 *Senate and the House of Representatives;*

16                 “(2) *the Committee on Homeland Security and*  
 17                 *Governmental Affairs of the Senate; and*

18                 “(3) *the Committee on Oversight and Govern-*  
 19                 *ment Reform of the House of Representatives.*

20          “(g) *TERMINATION OF AUTHORITY.—The authority to*  
 21          *conduct a demonstration program under this section shall*  
 22          *terminate on September 30, 2017.*

23          “(h) *CONVERSION.—Within six months after the au-*  
 24          *thority to conduct a demonstration project under this sec-*  
 25          *tion is terminated as provided in subsection (g), employees*



1 *in the project shall convert to the civilian personnel system*  
 2 *created pursuant to section 9902 of title 5.”.*

3 (2) *CLERICAL AMENDMENT.—The table of sec-*  
 4 *tions at the beginning of subchapter V of chapter 87*  
 5 *of title 10, United States Code, is amended by insert-*  
 6 *ing after the item relating to section 1761 the fol-*  
 7 *lowing new item:*

*“1762. Demonstration project relating to certain acquisition personnel manage-*  
*ment policies and procedures.”.*

8 (b) *CONFORMING REPEAL.—Section 4308 of the Na-*  
 9 *tional Defense Authorization Act for Fiscal Year 1996 (Pub-*  
 10 *lic Law 104–106; 10 U.S.C. 1701 note) is repealed.*

11 **SEC. 203. INCENTIVE PROGRAMS FOR CIVILIAN AND MILI-**  
 12 **TARY PERSONNEL IN THE ACQUISITION**  
 13 **WORKFORCE.**

14 (a) *IN GENERAL.—Chapter 87 of title 10, United*  
 15 *States Code, is amended by inserting after section 1762, as*  
 16 *added by section 202, the following new section:*

17 **“§1763. Incentive programs for civilian and military**  
 18 **personnel in the acquisition workforce**

19 **“(a) CIVILIAN ACQUISITION WORKFORCE INCEN-**  
 20 **TIVES.—The Secretary of Defense, acting through the Under**  
 21 **Secretary of Defense for Acquisition, Technology, and Lo-**  
 22 **gistics, shall provide for an enhanced system of incentives**  
 23 **for the encouragement of excellence in the acquisition work-**  
 24 **force by providing rewards for employees who contribute to**

1 *achieving the agency’s performance goals. The system of in-*  
2 *centives shall include provisions that—*

3           “(1) *relate salary increases, bonuses, and awards*  
4 *to performance and contribution to the agency mis-*  
5 *sion (including the extent to which the performance of*  
6 *personnel in such workforce contributes to achieving*  
7 *the goals and standards established for acquisition*  
8 *programs pursuant to section 2545 of this title;*

9           “(2) *provide for consideration, in personnel eval-*  
10 *uations and promotion decisions, of the extent to*  
11 *which the performance of personnel in such workforce*  
12 *contributes to achieving such goals and standards;*

13           “(3) *use the Department of Defense Civilian*  
14 *Workforce Incentive Fund established pursuant to sec-*  
15 *tion 9902(a) of title 5; and*

16           “(4) *provide opportunities for career broadening*  
17 *experiences for high performers.*

18       “(b) *MILITARY ACQUISITION WORKFORCE INCEN-*  
19 *TIVES.—The Secretaries of the military departments shall*  
20 *fully use and enhance incentive programs that reward indi-*  
21 *viduals, through recognition certificates or cash awards, for*  
22 *suggestions of process improvements that contribute to im-*  
23 *provements in efficiency and economy and a better way of*  
24 *doing business.”.*

1       (b) *CLERICAL AMENDMENT.*—*The table of sections at*  
 2 *the beginning of subchapter V of chapter 87 of title 10,*  
 3 *United States Code, is amended by inserting after the item*  
 4 *relating to section 1762, as added by section 202, the fol-*  
 5 *lowing new item:*

*“1763. Incentive programs for civilian and military personnel in the acquisition workforce.”.*

6       **SEC. 204. CAREER DEVELOPMENT FOR CIVILIAN AND MILI-**  
 7                               **TARY PERSONNEL IN THE ACQUISITION**  
 8                               **WORKFORCE.**

9       (a) *CAREER PATHS.*—

10               (1) *AMENDMENT.*—*Chapter 87 of title 10, United*  
 11 *States Code, is amended by inserting after section*  
 12 *1722a the following new section:*

13       **“§ 1722b. Special requirements for civilian employees**  
 14                               **in the acquisition field**

15               “(a) *REQUIREMENT FOR POLICY AND GUIDANCE RE-*  
 16 *GARDING CIVILIAN PERSONNEL IN ACQUISITION.*—*The Sec-*  
 17 *retary of Defense, acting through the Under Secretary of*  
 18 *Defense for Acquisition, Technology, and Logistics, shall es-*  
 19 *tablish policies and issue guidance to ensure the proper de-*  
 20 *velopment, assignment, and employment of civilian mem-*  
 21 *bers of the acquisition workforce to achieve the objectives*  
 22 *specified in subsection (b).*

1       “(b) *OBJECTIVES.—Policies established and guidance*  
2 *issued pursuant to subsection (a) shall ensure, at a min-*  
3 *imum, the following:*

4               “(1) *A career path in the acquisition field that*  
5 *attracts the highest quality civilian personnel, from*  
6 *either within or outside the Federal Government.*

7               “(2) *A deliberate workforce development strategy*  
8 *that increases attainment of key experiences that con-*  
9 *tribute to a highly qualified acquisition workforce.*

10              “(3) *Sufficient opportunities for promotion and*  
11 *advancement in the acquisition field.*

12              “(4) *A sufficient number of qualified, trained*  
13 *members eligible for and active in the acquisition*  
14 *field to ensure adequate capacity, capability, and ef-*  
15 *fective succession for acquisition functions, including*  
16 *contingency contracting, of the Department of De-*  
17 *fense.*

18       “(c) *INCLUSION OF INFORMATION IN ANNUAL RE-*  
19 *PORT.—The Secretary of Defense shall include in the report*  
20 *to Congress required under section 115b(d) of this title the*  
21 *following information related to the acquisition workforce*  
22 *for the period covered by the report (which shall be shown*  
23 *for the Department of Defense as a whole and separately*  
24 *for the Army, Navy, Air Force, Marine Corps, Defense*  
25 *Agencies, and Office of the Secretary of Defense):*

1           “(1) *The total number of persons serving in the*  
2           *Acquisition Corps, set forth separately for members of*  
3           *the armed forces and civilian employees, by grade*  
4           *level and by functional specialty.*

5           “(2) *The total number of critical acquisition po-*  
6           *sitions held, set forth separately for members of the*  
7           *armed forces and civilian employees, by grade level*  
8           *and by other appropriate categories (including by*  
9           *program manager, deputy program manager, and di-*  
10          *vision head positions). For each such category, the re-*  
11          *port shall specify the number of civilians holding such*  
12          *positions compared to the total number of positions*  
13          *filled.*

14          “(3) *The number of employees to whom the re-*  
15          *quirements of subsections (b)(2)(A) and (b)(2)(B) of*  
16          *section 1732 of this title did not apply because of the*  
17          *exceptions provided in paragraphs (1) and (2) of sec-*  
18          *tion 1732(c) of this title, set forth separately by type*  
19          *of exception.*

20          “(4) *The number of program managers and dep-*  
21          *uty program managers who were reassigned after*  
22          *completion of a major milestone occurring closest in*  
23          *time to the date on which the person has served in the*  
24          *position for four years (as required under section*  
25          *1734(b) of this title), and the proportion of those re-*

1       *assignments to the total number of reassignments of*  
2       *program managers and deputy program managers,*  
3       *set forth separately for program managers and deputy*  
4       *program managers. The Secretary also shall include*  
5       *the average length of assignment served by program*  
6       *managers and deputy program managers so reas-*  
7       *signed.*

8               “(5) *The number of persons, excluding those re-*  
9       *ported under paragraph (4), in critical acquisition*  
10       *positions who were reassigned after a period of three*  
11       *years or longer (as required under section 1734(a) of*  
12       *this title), and the proportion of those reassignments*  
13       *to the total number of reassignments of persons, ex-*  
14       *cluding those reported under paragraph (4), in crit-*  
15       *ical acquisition positions.*

16              “(6) *The number of times a waiver authority*  
17       *was exercised under section 1724(d), 1732(d),*  
18       *1734(d), or 1736(c) of this title or any other provi-*  
19       *sion of this chapter (or other provision of law) which*  
20       *permits the waiver of any requirement relating to the*  
21       *acquisition workforce, and in the case of each such*  
22       *authority, the reasons for exercising the authority.*  
23       *The Secretary may present the information provided*  
24       *under this paragraph by category or grouping of*  
25       *types of waivers and reasons.”.*

1           (2) *CLERICAL AMENDMENT.*—*The table of sec-*  
 2           *tions at the beginning of subchapter II of chapter 87*  
 3           *of title 10, United States Code, is amended by insert-*  
 4           *ing after the item relating to section 1722a the fol-*  
 5           *lowing new item:*

*“1722b. Special requirements for civilian employees in the acquisition field.”.*

6           (b) *CAREER EDUCATION AND TRAINING.*—*Chapter 87*  
 7           *of title 10, United States Code, is amended in section 1723*  
 8           *by redesignating subsection (b) as subsection (c) and insert-*  
 9           *ing after subsection (a) the following new subsection:*

10          “(b) *CAREER PATH REQUIREMENTS.*—*For each career*  
 11          *path, the Secretary of Defense, acting through the Under*  
 12          *Secretary of Defense for Acquisition, Technology, and Lo-*  
 13          *gistics shall establish requirements for the completion of*  
 14          *course work and related on-the-job training and demonstra-*  
 15          *tion of qualifications in the critical acquisition-related du-*  
 16          *ties and tasks of the career path. The Secretary of Defense,*  
 17          *acting through the Under Secretary, shall also—*

18                 “(1) *encourage individuals in the acquisition*  
 19                 *workforce to maintain the currency of their acquisi-*  
 20                 *tion knowledge and generally enhance their knowledge*  
 21                 *of related acquisition management disciplines through*  
 22                 *academic programs and other self-developmental ac-*  
 23                 *tivities; and*

24                 “(2) *develop key work experiences, including the*  
 25                 *creation of a program sponsored by the Department*

1        *of Defense that facilitates the periodic interaction be-*  
 2        *tween individuals in the acquisition workforce and*  
 3        *the end user in such end user's environment to en-*  
 4        *hance the knowledge base of such workforce, for indi-*  
 5        *viduals in the acquisition workforce so that the indi-*  
 6        *viduals may gain in-depth knowledge and experience*  
 7        *in the acquisition process and become seasoned, well-*  
 8        *qualified members of the acquisition workforce.”.*

9        **SEC. 205. RECERTIFICATION AND TRAINING REQUIRE-**  
 10        **MENTS.**

11        *(a) CONTINUING EDUCATION.—Section 1723 of title*  
 12        *10, United States Code, as amended by section 204, is fur-*  
 13        *ther amended by amending subsection (a) to read as follows:*

14        *“(a) QUALIFICATION REQUIREMENTS.—(1) The Sec-*  
 15        *retary of Defense shall establish education, training and ex-*  
 16        *perience requirements for each acquisition position, based*  
 17        *on the level of complexity of duties carried out in the posi-*  
 18        *tion. In establishing such requirements, the Secretary shall*  
 19        *ensure the availability and sufficiency of training in all*  
 20        *areas of acquisition, including additional training courses*  
 21        *with an emphasis on services contracting, long-term*  
 22        *sustainment strategies, information technology, and rapid*  
 23        *acquisition.*

24        *“(2) In establishing such requirements for positions*  
 25        *other than critical acquisition positions designated pursu-*



1 *ant to section 1733 of this title, the Secretary may state*  
 2 *the requirements by categories of positions.*

3 “(3) *The Secretary of Defense, acting through the*  
 4 *Under Secretary of Defense for Acquisition, Technology,*  
 5 *and Logistics, shall establish requirements for continuing*  
 6 *education and periodic renewal of an individual’s certifi-*  
 7 *cation. Any requirement for a certification renewal shall*  
 8 *not require a renewal more often than once every five*  
 9 *years.”.*

10 (b) *STANDARDS FOR TRAINING.—*

11 (1) *IN GENERAL.—Subchapter IV of Chapter 87*  
 12 *of title 10, United States Code, is amended by adding*  
 13 *at the end the following new section:*

14 “§1748. ***Guidance and standards for acquisition***  
 15 ***workforce training***

16 “(a) *FULFILLMENT STANDARDS.—The Secretary of*  
 17 *Defense, acting through the Under Secretary of Defense for*  
 18 *Acquisition, Technology, and Logistics, shall develop fulfill-*  
 19 *ment standards, and implement and maintain a program,*  
 20 *for purposes of the training requirements of sections 1723,*  
 21 *1724, and 1735 of this title. Such fulfillment standards*  
 22 *shall consist of criteria for determining whether an indi-*  
 23 *vidual has demonstrated competence in the areas that would*  
 24 *be taught in the training courses required under those sec-*

1 tions. If an individual meets the appropriate fulfillment  
 2 standard, the applicable training requirement is fulfilled.

3 “(b) *GUIDANCE AND STANDARDS RELATING TO CON-*  
 4 *TRACTS FOR TRAINING.*—The Secretary of Defense shall de-  
 5 velop appropriate guidance and standards to ensure that  
 6 the Department of Defense will continue, where appropriate  
 7 and cost-effective, to enter into contracts for the training  
 8 requirements of sections 1723, 1724, and 1735 of this title,  
 9 while maintaining appropriate control over the content and  
 10 quality of such training.”.

11 (2) *CLERICAL AMENDMENT.*—The table of sec-  
 12 tions at the beginning of such subchapter is amended  
 13 by adding at the end the following new item:

“1748. Guidance and standards for acquisition workforce training.”.

14 (3) *DEADLINE FOR FULFILLMENT STANDARDS.*—  
 15 The fulfillment standards required under section  
 16 1748(a) of title 10, United States Code, as added by  
 17 paragraph (1), shall be developed not later than 90  
 18 days after the date of the enactment of this Act.

19 (4) *CONFORMING REPEAL.*—Section 853 of Pub-  
 20 lic Law 105–85 (111 Stat. 1851) is repealed.

21 **SEC. 206. INFORMATION TECHNOLOGY ACQUISITION WORK-**  
 22 **FORCE.**

23 (a) *IN GENERAL.*—

24 (1) *INFORMATION TECHNOLOGY.*—Subchapter II  
 25 of chapter 87 of title 10, United States Code, is

1        *amended by adding at the end the following new sec-*  
2        *tion:*

3        **“§ 1725. Information technology acquisition positions**

4        *“(a) PLAN REQUIRED.—The Secretary of Defense shall*  
5        *develop and carry out a plan to strengthen the part of the*  
6        *acquisition workforce that specializes in information tech-*  
7        *nology. The plan shall include the following:*

8                *“(1) Defined targets for billets devoted to infor-*  
9                *mation technology acquisition.*

10               *“(2) Specific certification requirements for indi-*  
11               *viduals in the acquisition workforce who specialize in*  
12               *information technology acquisition.*

13               *“(3) Defined career paths for individuals in the*  
14               *acquisition workforce who specialize in information*  
15               *technology acquisitions.*

16        *“(b) DEFINITIONS.—In this section:*

17               *“(1) The term ‘information technology’ has the*  
18               *meaning provided such term in section 11101 of title*  
19               *40 and includes information technology incorporated*  
20               *into a major weapon system.*

21               *“(2) The term ‘major weapon system’ has the*  
22               *meaning provided such term in section 2379(f) of this*  
23               *title.”.*

1           (2) *CLERICAL AMENDMENT.*—*The table of sec-*  
 2           *tions at the beginning of such subchapter is amended*  
 3           *by adding at the end the following new item:*

*“1725. Information technology acquisition positions.”.*

4           (b) *DEADLINE.*—*The Secretary of Defense shall develop*  
 5           *the plan required under section 1725 of title 10, United*  
 6           *States Code, as added by subsection (a), not later than 180*  
 7           *days after the date of the enactment of this Act.*

8   **SEC. 207. DEFINITION OF ACQUISITION WORKFORCE.**

9           Section 101(a) of title 10, United States Code, is  
 10          amended by inserting after paragraph (17) the following  
 11          new paragraph:

12                 “(18) The term ‘acquisition workforce’ means the  
 13                 persons serving in acquisition positions within the  
 14                 Department of Defense, as designated pursuant to sec-  
 15                 tion 1721(a) of this title.”.

16   **SEC. 208. DEFENSE ACQUISITION UNIVERSITY CUR-**  
 17                 **RICULUM REVIEW.**

18           (a) *CURRICULUM REVIEW.*—*Not later than one year*  
 19           *after the date of the enactment of this Act, the Under Sec-*  
 20           *retary of Defense for Acquisition, Technology, and Logistics*  
 21           *shall lead a review of the curriculum offered by the Defense*  
 22           *Acquisition University to ensure it adequately supports the*  
 23           *training and education requirements of acquisition profes-*  
 24           *sionals, particularly in service contracting, long term*  
 25           *sustainment strategies, information technology, and rapid*

1 *acquisition. The review shall also involve the service acqui-*  
 2 *sition executives of each military department.*

3       (b) *ANALYSIS OF FUNDING REQUIREMENTS FOR*  
 4 *TRAINING.—Following the review conducted under sub-*  
 5 *section (a), the Secretary of Defense shall analyze the most*  
 6 *recent future-years defense program to determine the*  
 7 *amounts of estimated expenditures and proposed appro-*  
 8 *priations necessary to support the training requirements of*  
 9 *the amendments made by section 205 of this Act, including*  
 10 *any new training requirements determined after the review*  
 11 *conducted under subsection (a). The Secretary shall identify*  
 12 *any additional funding needed for such training require-*  
 13 *ments in the separate chapter on the defense acquisition*  
 14 *workforce required in the next annual strategic workforce*  
 15 *plan under 115b of title 10, United States Code.*

16       (c) *REQUIREMENT FOR ONGOING CURRICULUM DE-*  
 17 *VELOPMENT WITH CERTAIN SCHOOLS.—*

18               (1) *REQUIREMENT.—Section 1746 of title 10,*  
 19 *United States Code, is amended by adding at the end*  
 20 *the following new subsection:*

21       “(c) *CURRICULUM DEVELOPMENT.—The President of*  
 22 *the Defense Acquisition University shall work with the rel-*  
 23 *evant professional schools and degree-granting institutions*  
 24 *of the Department of Defense and military departments to*

1 *ensure that best practices are used in curriculum develop-*  
 2 *ment to support acquisition workforce positions.”.*

3 (2) *AMENDMENT TO SECTION HEADING.—(A)*

4 *The heading of section 1746 of such title is amended*  
 5 *to read as follows:*

6 **“§ 1746. Defense Acquisition University”.**

7 (B) *The item relating to section 1746 in the*  
 8 *table of sections at the beginning of subchapter IV of*  
 9 *chapter 87 of such title is amended to read as follows:*

*“1746. Defense Acquisition University.”.*

10 **SEC. 209. COST ESTIMATING INTERNSHIP AND SCHOLAR-**  
 11 **SHIP PROGRAMS.**

12 (a) *PURPOSE.—The purpose of this section is to re-*  
 13 *quire the Department of Defense to develop internship and*  
 14 *scholarship programs in cost estimating to underscore the*  
 15 *importance of cost estimating, as a core acquisition func-*  
 16 *tion, to the acquisition process.*

17 (b) *REQUIREMENT.—The Secretary of Defense shall de-*  
 18 *velop intern and scholarship programs in cost estimating*  
 19 *for purposes of improving education and training in cost*  
 20 *estimating and providing an opportunity to meet any cer-*  
 21 *tification requirements in cost estimating.*

22 (c) *IMPLEMENTATION.—Such programs shall be estab-*  
 23 *lished not later than 270 days after the date of the enact-*  
 24 *ment of this Act and shall be implemented for a four-year*  
 25 *period following establishment of the programs.*

***TITLE III—FINANCIAL  
MANAGEMENT***

***SEC. 301. INCENTIVES FOR ACHIEVING AUDITABILITY.***

*(a) PREFERENTIAL TREATMENT AUTHORIZED.—The Under Secretary of Defense (Comptroller) shall ensure that any component of the Department of Defense that the Under Secretary determines has financial statements validated as ready for audit earlier than September 30, 2017, shall receive preferential treatment, as the Under Secretary determines appropriate—*

*(1) in financial matter matters, including—*

*(A) consistent with the need to fund urgent warfighter requirements and operational needs, priority in the release of appropriated funds to such component;*

*(B) relief from the frequency of financial reporting of such component in cases in which such reporting is not required by law;*

*(C) relief from departmental obligation and expenditure thresholds to the extent that such thresholds establish requirements more restrictive than those required by law; or*

*(D) such other measures as the Under Secretary considers appropriate; and*

1           (2) *in the availability of personnel management*  
 2       *incentives, including—*

3               (A) *the size of the bonus pool available to*  
 4       *the financial and business management work-*  
 5       *force of the component;*

6               (B) *the rates of promotion within the finan-*  
 7       *cial and business management workforce of the*  
 8       *component;*

9               (C) *awards for excellence in financial and*  
 10       *business management; or*

11              (D) *the scope of work assigned to the finan-*  
 12       *cial and business management workforce of the*  
 13       *component.*

14       (b) *INCLUSION OF INFORMATION IN REPORT.—The*  
 15       *Under Secretary shall include information on any measure*  
 16       *initiated pursuant to this section in the next semiannual*  
 17       *report pursuant to section 1003(b) of the National Defense*  
 18       *Authorization Act for Fiscal Year 2010 (Public Law 111–*  
 19       *84; 123 Stat. 2439; 10 U.S.C. 2222 note) after such measure*  
 20       *is initiated.*

21       (c) *EXPIRATION.—This section shall expire on Sep-*  
 22       *tember 30, 2017.*

23       (d) *DEFINITION.—In this section, the term “compo-*  
 24       *nent of the Department of Defense” means any organization*  
 25       *within the Department of Defense that is required to submit*



1 *an auditable financial statement to the Secretary of De-*  
2 *fense.*

3 **SEC. 302. MEASURES REQUIRED AFTER FAILURE TO**  
4 **ACHIEVE AUDITABILITY.**

5 (a) *IN GENERAL.*—*The Secretary of Defense shall en-*  
6 *sure that corrective measures are immediately taken to ad-*  
7 *dress the failure of a component of the Department of De-*  
8 *fense to achieve a financial statement validated as ready*  
9 *for audit by September 30, 2017.*

10 (b) *MEASURES REQUIRED.*—*Not later than 180 days*  
11 *after the date of the enactment of this Act, the Secretary*  
12 *shall develop and issue guidance detailing measures to be*  
13 *taken in accordance with subsection (a). Such measures*  
14 *shall include—*

15 (1) *the development of a remediation plan to en-*  
16 *sure the component can achieve a financial statement*  
17 *validated as ready for audit within one year;*

18 (2) *additional reporting requirements that may*  
19 *be necessary to mitigate financial risk to the compo-*  
20 *nent;*

21 (3) *delaying the release of appropriated funds to*  
22 *such component, consistent with the need to fund ur-*  
23 *gent warfighter requirements and operational needs,*  
24 *until such time as the Secretary is assured that the*

1        *component will achieve a financial statement vali-*  
 2        *dated as ready for audit within one year;*

3            (4) *specific consequences for key personnel in*  
 4        *order to ensure accountability within the leadership*  
 5        *of the component; and*

6            (5) *such other measures as the Secretary con-*  
 7        *siders appropriate.*

8        (c) *DEFINITION.—The term “component” of the De-*  
 9        *partment of Defense means any organization within the De-*  
 10       *partment of Defense that is required to submit an auditable*  
 11       *financial statement to the Secretary of Defense.*

12       **SEC. 303. REVIEW OF OBLIGATION AND EXPENDITURE**  
 13                                **THRESHOLDS.**

14       (a) *SENSE OF CONGRESS.—It is the sense of Congress*  
 15       *that—*

16            (1) *Department of Defense program managers*  
 17        *should be encouraged to place a higher priority on*  
 18        *seeking the best value for the Government than on*  
 19        *meeting arbitrary benchmarks for spending; and*

20            (2) *actions to carry out paragraph (1) should be*  
 21        *supported by the Department’s leadership at every*  
 22        *level.*

23       (b) *POLICY REVIEW.—Not later than 180 days after*  
 24       *the date of the enactment of this Act, the Chief Management*  
 25       *Officer of the Department of Defense, in coordination with*

1 *the Chief Management Officer of each military department,*  
2 *shall review and update as necessary all relevant policy and*  
3 *instruction regarding obligation and expenditure bench-*  
4 *marks to ensure that such guidance does not inadvertently*  
5 *prevent achieving the best value for the Government in the*  
6 *obligation and expenditure of funds.*

7       *(c) PROCESS REVIEW.—Not later than one year after*  
8 *the date of the enactment of this Act, the Chief Management*  
9 *Officer, in coordination with the Chief Management Officer*  
10 *of each military department, the Director of the Office of*  
11 *Performance Assessment and Root Cause Analysis, the*  
12 *Under Secretary of Defense (Comptroller), and the Comp-*  
13 *trollers of the military departments, shall conduct a com-*  
14 *prehensive review of the use and value of obligation and*  
15 *expenditure benchmarks and propose new benchmarks or*  
16 *processes for tracking financial performance, including, as*  
17 *appropriate—*

18               *(1) increased reliance on individual obligation*  
19               *and expenditure plans for measuring program finan-*  
20               *cial performance;*

21               *(2) mechanisms to improve funding stability and*  
22               *to increase the predictability of the release of funding*  
23               *for obligation and expenditure; and*

1           (3) *streamlined mechanisms for a program man-*  
 2           *ager to submit an appeal for funding changes and to*  
 3           *have such appeal evaluated promptly.*

4           (d) *TRAINING.—The Under Secretary of Defense for*  
 5           *Acquisition, Technology, and Logistics and the Under Sec-*  
 6           *retary of Defense (Comptroller) shall ensure that as part*  
 7           *of the training required for program managers and business*  
 8           *managers, an emphasis is placed on obligating and expend-*  
 9           *ing appropriated funds in a manner that achieves the best*  
 10          *value for the Government and that the purpose and limita-*  
 11          *tions of obligation and expenditure benchmarks are made*  
 12          *clear.*

## 13           ***TITLE IV—INDUSTRIAL BASE***

### 14          ***SEC. 401. EXPANSION OF THE INDUSTRIAL BASE.***

15          (a) *PROGRAM TO EXPAND INDUSTRIAL BASE RE-*  
 16          *QUIRED.—The Secretary of Defense shall establish a pro-*  
 17          *gram to expand the industrial base of the Department of*  
 18          *Defense to increase the Department’s access to innovation*  
 19          *and the benefits of competition.*

20          (b) *IDENTIFYING AND COMMUNICATING WITH NON-*  
 21          *TRADITIONAL SUPPLIERS.—The program established under*  
 22          *subsection (a) shall use tools and resources available within*  
 23          *the Federal Government and available from the private sec-*  
 24          *tor, to provide a capability for identifying and commu-*  
 25          *nicating with nontraditional suppliers, including commer-*

1 cial firms and firms of all business sizes, that are engaged  
 2 in markets of importance to the Department of Defense.

3 (c) *INDUSTRIAL BASE REVIEW.*—The program re-  
 4 quired by subsection (a) shall include a continuous effort  
 5 to review the industrial base supporting the Department of  
 6 Defense, including the identification of markets of impor-  
 7 tance to the Department of Defense.

8 (d) *DEFINITION.*—In this section:

9 (1) *NONTRADITIONAL SUPPLIERS.*—The term  
 10 “nontraditional suppliers” means firms that have re-  
 11 ceived contracts from the Department of Defense with  
 12 a total value of not more than \$100,000 in the pre-  
 13 vious 5 years.

14 (2) *MARKETS OF IMPORTANCE TO THE DEPART-*  
 15 *MENT OF DEFENSE.*—The term “markets of impor-  
 16 tance to the Department of Defense” means industrial  
 17 sectors in which the Department of Defense spends  
 18 more than \$500,000,000 annually.

19 **SEC. 402. COMMERCIAL PRICING ANALYSIS.**

20 Section 803(c) of the Strom Thurmond National De-  
 21 fense Authorization Act for Fiscal Year 1999 (Public Law  
 22 105–261; 10 U.S.C. 2306a note) is amended to read as fol-  
 23 lows:

24 “(c) *COMMERCIAL PRICE TREND ANALYSIS.*—

1           “(1) *The Secretary of Defense shall develop and*  
2           *implement procedures that, to the maximum extent*  
3           *practicable, provide for the collection and analysis of*  
4           *information on price trends for categories of exempt*  
5           *commercial items described in paragraph (2).*

6           “(2) *A category of exempt commercial items re-*  
7           *ferred to in paragraph (1) consists of exempt commer-*  
8           *cial items that are in a single Federal Supply Group*  
9           *or Federal Supply Class, are provided by a single*  
10          *contractor, or are otherwise logically grouped for the*  
11          *purpose of analyzing information on price trends.*

12          “(3) *The analysis of information on price trends*  
13          *under paragraph (1) shall include, in any category in*  
14          *which significant escalation in prices is identified, a*  
15          *more detailed examination of the causes of escalation*  
16          *for such prices within the category and whether such*  
17          *price escalation is consistent across the Department of*  
18          *Defense.*

19          “(4) *The head of a Department of Defense agency*  
20          *or the Secretary of a military department shall take*  
21          *appropriate action to address any unjustified esca-*  
22          *lation in prices being paid for items procured by that*  
23          *agency or military department as identified in an*  
24          *analysis conducted pursuant to paragraph (1).*

1           “(5) Not later than April 1 of each of year, the  
 2       Secretary of Defense shall submit to the Committee on  
 3       Armed Services of the Senate and the Committee on  
 4       Armed Services of the House of Representatives a re-  
 5       port on the analyses of price trends that were con-  
 6       ducted for categories of exempt commercial items dur-  
 7       ing the preceding fiscal year under the procedures  
 8       prescribed pursuant to paragraph (1). The report  
 9       shall include a description of the actions taken to  
 10      identify and address any unjustified price escalation  
 11      for the categories of items.

12           “(6) This subsection shall not be in effect on and  
 13      after April 1, 2013.”.

14   **SEC. 403. CONTRACTOR AND GRANTEE DISCLOSURE OF DE-**  
 15           **LINQUENT FEDERAL TAX DEBTS.**

16       (a) *REQUIREMENT.*—

17           (1) *IN GENERAL.*—Chapter 37 of title 31, United  
 18       States Code, is amended by adding at the end of sub-  
 19       chapter II the following new section:

20   **“§ 3720F. Contractor and grantee disclosure of delin-**  
 21           **quent Federal tax debts**

22       “(a) *REQUIREMENT RELATING TO CONTRACTS.*—The  
 23       head of any executive agency that issues an invitation for  
 24       bids or a request for proposals for a contract in an amount  
 25       greater than the simplified acquisition threshold shall re-

1 *quire each person that submits a bid or proposal to submit*  
 2 *with the bid or proposal a form—*

3           “(1) *certifying that the person does not have a*  
 4 *seriously delinquent tax debt; and*

5           “(2) *authorizing the Secretary of the Treasury to*  
 6 *disclose to the head of the agency information strictly*  
 7 *limited to verifying whether the person has a seri-*  
 8 *ously delinquent tax debt.*

9           “(b) *REQUIREMENT RELATING TO GRANTS.—The head*  
 10 *of any executive agency that offers a grant in excess of an*  
 11 *amount equal to the simplified acquisition threshold may*  
 12 *not award such grant to any person unless such person sub-*  
 13 *mits with the application for such grant a form—*

14           “(1) *certifying that the person does not have a*  
 15 *seriously delinquent tax debt; and*

16           “(2) *authorizing the Secretary of the Treasury to*  
 17 *disclose to the head of the executive agency informa-*  
 18 *tion strictly limited to verifying whether the person*  
 19 *has a seriously delinquent tax debt.*

20           “(c) *FORM FOR RELEASE OF INFORMATION.—The Sec-*  
 21 *retary of the Treasury shall make available to all executive*  
 22 *agencies a standard form for the certification and author-*  
 23 *ization described in subsections (a) and (b).*

24           “(d) *DEFINITIONS.—In this section:*



1           “(1) *CONTRACT.*—*The term ‘contract’ means a*  
2           *binding agreement entered into by an executive agen-*  
3           *cy for the purpose of obtaining property or services,*  
4           *but does not include—*

5                     “(A) *a contract for property or services that*  
6                     *is intended to be entered into through the use of*  
7                     *procedures other than competitive procedures by*  
8                     *reason of section 2304(c)(2) of this title; or*

9                     “(B) *a contract designated by the head of*  
10                    *the agency as necessary to the national security*  
11                    *of the United States.*

12           “(2) *EXECUTIVE AGENCY.*—*The term ‘executive*  
13           *agency’ has the meaning given that term in section*  
14           *4(1) of the Office of Federal Procurement Policy Act*  
15           *(41 U.S.C. 403(1)).*

16           “(3) *PERSON.*—*The term ‘person’ includes—*

17                     “(A) *an individual;*

18                     “(B) *a partnership; and*

19                     “(C) *a corporation.*

20           “(4) *SERIOUSLY DELINQUENT TAX DEBT.*—*The*  
21           *term ‘seriously delinquent tax debt’—*

22                     “(A) *means any Federal tax liability—*

23                             “(i) *that exceeds \$3,000;*

24                             “(ii) *that has been assessed by the Sec-*  
25                             *retary of the Treasury and not paid; and*

1                   “(iii) for which a notice of lien has  
2                   been filed in public records; and

3                   “(B) does not include any Federal tax li-  
4                   ability—

5                   “(i) being paid in a timely manner  
6                   under an offer-in-compromise or install-  
7                   ment agreement;

8                   “(ii) with respect to which collection  
9                   due process proceedings are not completed;  
10                  or

11                  “(iii) with respect to which collection  
12                  due process proceedings are completed and  
13                  no further payment is required.

14                  “(5) *SIMPLIFIED ACQUISITION THRESHOLD.*—  
15                  The term ‘simplified acquisition threshold’ has the  
16                  meaning given that term in section 4(11) of the Office  
17                  of Federal Procurement Policy Act (41 U.S.C.  
18                  403(11)).

19                  “(e) *REGULATIONS.*—The Administrator for Federal  
20                  Procurement Policy, in consultation with the Secretary of  
21                  the Treasury, shall promulgate regulations that—

22                  “(1) treat corporations and partnerships as hav-  
23                  ing a seriously delinquent tax debt if such corpora-  
24                  tion or partnership is controlled (directly or indi-

1 *rectly) by persons who have a seriously delinquent tax*  
 2 *debt;*

3 *“(2) provide for the proper application of sub-*  
 4 *sections (a)(2) and (b)(2) in the case of corporations*  
 5 *and partnerships; and*

6 *“(3) provide for the proper application of sub-*  
 7 *section (a) to first-tier subcontractors that are identi-*  
 8 *fied in a bid or proposal and are a significant part*  
 9 *of a bid or proposal team.”.*

10 *(2) CLERICAL AMENDMENT.—The table of sec-*  
 11 *tions at the beginning of chapter 37 of such title is*  
 12 *amended by adding after the item relating to section*  
 13 *3720E the following new item:*

*“3720F. Contractor and grantee disclosure of delinquent Federal tax debts.”.*

14 *(b) REVISION OF FEDERAL ACQUISITION REGULA-*  
 15 *TION.—Not later than 90 days after the final promulgation*  
 16 *of regulations under section 3720F(e) of title 31, United*  
 17 *States Code, as added by subsection (a), the Federal Acqui-*  
 18 *sition Regulation shall be revised to incorporate the require-*  
 19 *ments of section 3720F of such title.*

20 **SEC. 404. INDEPENDENCE OF CONTRACT AUDITS AND BUSI-**  
 21 **NESS SYSTEM REVIEWS.**

22 *(a) DEFENSE CONTRACT AUDIT AGENCY GENERAL*  
 23 *COUNSEL.—*

1           (1) *IN GENERAL.*—Subchapter II of chapter 8 of  
 2           title 10, United States Code, is amended by adding  
 3           at the end the following new section:

4   **“§ 204. Defense Contract Audit Agency general counsel**

5           “(a) *GENERAL COUNSEL.*—The Director of the Defense  
 6           Contract Audit Agency shall appoint a General Counsel of  
 7           the Defense Contract Audit Agency.

8           “(b) *DUTIES.*—(1) The General Counsel shall perform  
 9           such functions as the Director may prescribe and shall serve  
 10          at the discretion of the Director.

11          “(2) Notwithstanding section 140(b) of this title, the  
 12          General Counsel shall be the chief legal officer of the Defense  
 13          Contract Audit Agency.

14          “(3) The Defense Contract Audit Agency shall be the  
 15          exclusive legal client of the General Counsel.

16          “(c) *OFFICE OF THE GENERAL COUNSEL.*—There is  
 17          established an Office of the General Counsel within the De-  
 18          fense Contract Audit Agency. The Director may appoint to  
 19          the Office to serve as staff of the General Counsel such legal  
 20          counsel as the Director determines is appropriate.”.

21          (2) *CLERICAL AMENDMENT.*—The table of sec-  
 22          tions at the beginning of subchapter II of chapter 8  
 23          of such title is amended by adding at the end the fol-  
 24          lowing new item:

“204. Defense Contract Audit Agency general counsel.”.

25          (b) *CRITERIA FOR BUSINESS SYSTEM REVIEWS.*—

1           (1) *IN GENERAL.*—Chapter 131 of title 10,  
 2           *United States Code*, is amended by inserting after sec-  
 3           tion 2222 the following new section:

4   **“§ 2222a. Criteria for business system reviews**

5           “(a) *CRITERIA FOR BUSINESS SYSTEM REVIEWS.*—  
 6           *The Secretary of Defense shall ensure that any contractor*  
 7           *business system review carried out by a military depart-*  
 8           *ment, a Defense Agency, or a Department of Defense Field*  
 9           *Activity—*

10           “(1) *complies with generally accepted govern-*  
 11           *ment auditing standards issued by the Comptroller*  
 12           *General;*

13           “(2) *is performed by an audit team that does not*  
 14           *engage in any other official activity (audit-related or*  
 15           *otherwise) involving the contractor concerned;*

16           “(3) *is performed in a time and manner con-*  
 17           *sistent with a documented assessment of the risk to*  
 18           *the Federal Government; and*

19           “(4) *involves testing on a representative sample*  
 20           *of transactions sufficient to fully examine the integ-*  
 21           *riety of the contractor business system concerned.*

22           “(b) *CONTRACTOR BUSINESS SYSTEM REVIEW DE-*  
 23           *FINED.*—*In this section, the term ‘contractor business sys-*  
 24           *tem review’ means an audit of policies, procedures, and in-*

1 *ternal controls relating to accounting and management sys-*  
 2 *tems of a contractor.”.*

3 (2) *CLERICAL AMENDMENT.—The table of sec-*  
 4 *tions at the beginning of chapter 131 of such title is*  
 5 *amended by inserting after the item relating to sec-*  
 6 *tion 2222 the following new item:*

*“2222a. Criteria for business system reviews.”.*

7 (c) *CONTRACT AUDIT GUIDANCE.—Not later than 180*  
 8 *days after the date of the enactment of this Act, the Sec-*  
 9 *retary of Defense shall issue guidance relating to contract*  
 10 *audits carried out by a military department, a defense*  
 11 *agency, or a Department of Defense field activity that are*  
 12 *not contractor business system reviews, as described under*  
 13 *section 2222a of title 10, United States Code, that—*

14 (1) *requires that such audits comply with gen-*  
 15 *erally accepted government auditing standards issued*  
 16 *by the Comptroller General and are performed in a*  
 17 *time and manner consistent with a documented as-*  
 18 *essment of risk to the Federal Government;*

19 (2) *establishes guidelines for discussions of the*  
 20 *scope of the audit with the contractor concerned that*  
 21 *ensure that such scope is not improperly influenced*  
 22 *by the contractor;*

23 (3) *provides for withholding of contract pay-*  
 24 *ments when necessary to compel the submission of*  
 25 *documentation from the contractor; and*

1           (4) *requires that the results of contract audits*  
 2           *performed on behalf of an agency of the Department*  
 3           *of Defense be shared with other Federal agencies upon*  
 4           *request, without reimbursement.*

5           (d) *EFFECTIVE DATES.*—

6           (1) *SECTION 204.*—Section 204 of title 10,  
 7           *United States Code, as added by subsection (a), shall*  
 8           *take effect on the date of the enactment of this Act.*

9           (2) *SECTION 2222A.*—Section 2222a of title 10,  
 10          *United States Code, as added by subsection (b), shall*  
 11          *take effect 180 days after the date of the enactment of*  
 12          *this Act.*

13 **SEC. 405. BLUE RIBBON PANEL ON ELIMINATING BARRIERS**  
 14                               **TO CONTRACTING WITH THE DEPARTMENT**  
 15                               **OF DEFENSE.**

16          (a) *REQUIREMENT TO ESTABLISH.*—The Secretary of  
 17          *Defense shall establish a panel consisting of owners of large*  
 18          *and small businesses that are not traditional defense sup-*  
 19          *pliers, for purposes of creating a set of recommendations*  
 20          *on eliminating barriers to contracting with the Department*  
 21          *of Defense and its defense supply centers.*

22          (b) *MEMBERS.*—The panel shall consist of nine mem-  
 23          *bers, of whom—*

24               (1) *three shall be appointed by the Secretary of*  
 25               *the Army;*

1           (2) *three shall be appointed by the Secretary of*  
2       *the Navy; and*

3           (3) *three shall be appointed by the Secretary of*  
4       *the Air Force.*

5       (c) *APPOINTMENT DEADLINE.—Members shall be ap-*  
6       *pointed to the panel not later than 180 days after the date*  
7       *of the enactment of this Act.*

8       (d) *DUTIES.—The panel shall be responsible for devel-*  
9       *oping a set of recommendations on eliminating barriers to*  
10      *contracting with the Department of Defense and its defense*  
11      *supply centers.*

12      (e) *REPORT.—Not later than one year after the date*  
13      *of the enactment of this Act, the panel shall submit to Con-*  
14      *gress a report containing its recommendations.*

15   **SEC. 406. INCLUSION OF THE PROVIDERS OF SERVICES AND**  
16                   **INFORMATION TECHNOLOGY IN THE NA-**  
17                   **TIONAL TECHNOLOGY AND INDUSTRIAL**  
18                   **BASE.**

19      (a) *REVISED DEFINITIONS.—Section 2500 of title 10,*  
20      *United States Code, is amended—*

21           (1) *in paragraph (1), by striking “or mainte-*  
22           *nance” and inserting “integration, services, or infor-*  
23           *mation technology”;*



1           (2) in paragraph (4), by striking “or produc-  
2           tion” and inserting “production, integration, services,  
3           or information technology”;

4           (3) in paragraph (9)(A), by striking “and man-  
5           ufacturing” and inserting “manufacturing, integra-  
6           tion, services, and information technology”; and

7           (4) by adding at the end the following new para-  
8           graph:

9           “(15) The term ‘integration’ means the process of  
10          providing systems engineering and technical direction  
11          for a system for the purpose of achieving capabilities  
12          that satisfy contract requirements.”.

13          (b) *REVISED OBJECTIVES*.—Section 2501(a) of such  
14          title is amended—

15               (1) in paragraph (1), by striking “Supplying  
16               and equipping” and inserting “Supplying, equip-  
17               ping, and supporting”;

18               (2) in paragraph (2), by striking “and logistics  
19               for” and inserting “logistics, and other activities in  
20               support of”;

21               (3) in paragraph (4), by striking “and produce”  
22               and inserting “, produce, and support”; and

23               (4) by redesignating paragraph (6) as para-  
24               graph (8) and inserting after paragraph (5) the fol-  
25               lowing new paragraphs:

1           “(6) *Providing for the generation of services ca-*  
2           *pabilities that are not core functions of the armed*  
3           *forces and that are critical to military operations*  
4           *within the national technology and industrial base.*

5           “(7) *Providing for the development, production,*  
6           *and integration of information technology within the*  
7           *national technology and industrial base.”.*

8           (c) *REVISED ASSESSMENTS.*—Section 2505(b)(4) of  
9           such title is amended by inserting after “of this title)” the  
10          following “or major automated information systems (as de-  
11          fined in section 2445a of this title)”.

12          (d) *REVISED POLICY GUIDANCE.*—Section 2506(a) of  
13          such title is amended by striking “budget allocation, weap-  
14          ons” and inserting “strategy, management, budget alloca-  
15          tion,”.



Union Calendar No. 266

11<sup>TH</sup> CONGRESS  
2<sup>D</sup> Session

**H. R. 5013**

[Report No. 111-465, Part I]

**A BILL**

To amend title 10, United States Code, to provide for performance management of the defense acquisition system, and for other purposes.

APRIL 23, 2010

Reported from the Committee on Armed Services with an amendment

APRIL 23, 2010

Committee on Oversight and Government Reform discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed